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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/839,296	04/23/2001	Yoshinori Aoyagi	122638/00	2997

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EXAMINER

NGUYEN, HOAN C

ART UNIT

PAPER NUMBER

2871

DATE MAILED: 07/14/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application N .

09/839,296

Applicant(s)

AOYAGI ET AL.

Examiner

HOAN C. NGUYEN

Art Unit

2871

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☐ Claim(s) ____ is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☒ Claim(s) 1-13 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Election/Restrictions

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-6, drawn to a liquid crystal display device with substrates having irregular surface including line-shaped protrusion, classified in class 349, subclass 126.
- II. Claim 7-13, drawn to a method for producing a liquid crystal display device with substrates having irregular surface including line-shaped protrusion, classified in class 349, subclass 187.

The inventions are distinct, each from the other because of the following reasons:

Inventions I and II are related as apparatus and product made. The inventions in this relationship are distinct if either or both of the following can be shown: (1) that the apparatus as claimed is not an obvious apparatus for making the product and the apparatus can be used for making a different product or (2) that the product as claimed can be made by another and materially different apparatus (MPEP § 806.05(g)). In this case a liquid crystal display device (invention I) can be made by different process in which first substrate and second substrate are rubbed (drawn) to form line or belt-shaped protrusions; wherein these two rubbing directions on the first and second substrate are perpendicular. While a method for producing a liquid crystal display device is manufactured by cutting the existing first and second drawn (rubbed) raw glass substrates.

NOTES:

- A limitation "irregular surface" in claims 1, 7, 11 **did not disclose in the original specification** or in the drawings 4-6.
- Figures 4-6 show the symmetrical line or belt-shape protrusions. This seems contradicting with the definition of irregular (without symmetry, even shape formal arrangement) in the dictionary. These symmetrical line or belt-shape protrusions are arranged or distributed in the periodic pattern (not irregular).
- A limitation "position of highest or smallest pressure" in claims 12 and 13 does not disclose in the original specification. The liquid crystal material tends to evenly distribute over substrate surfaces. Thus, in Fig 3, the area 26 and the area 27 is provided at different thickness of the substrates within the liquid crystal display panel 23 rather than at different pressure.
- There is no Figure showing **the electrodes, the spacers, the color filter and the witching elements** formed on "irregular surface" including line or belt-shaped protrusions. Fig. 7 shows only the electrodes, color filters, the spacer and the witching elements formed on the flat surface, which is **not included** line or belt-shaped protrusions.
- Specification **does not disclose any step** of forming **the electrodes, the spacers, the color filter and the witching elements** on or along "irregular surface" (rough surface) including line or belt-shaped protrusions. Applicant should include clearly all steps of manufacture in both the specification and the method claims?

There is no known technique of forming **the electrodes, the spacers, the color filter and the switching elements** on "irregular surface" (rough surface or curved surface) including line or belt-shaped protrusions **without a planarization layer**. Therefore, **the claims 3-5 and 7-13 may become non-enablement** if applicants do not include the steps of forming **the electrodes, the spacers, the color filter and the switching elements** on "irregular surface" including line or belt-shaped protrusions. However, applicants should beware that these including steps can be New Subject Matter.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, claim 7 is generic in a group II

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

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Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to HOAN C. NGUYEN whose telephone number is (703) 306-0472.

HOAN C. NGUYEN
Examiner
Art Unit 2871

chn
June 20, 2003

TOANTON
PRIMARY EXAMINER